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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-214315

DATE: 2/25/85

MATTER OF: Antoni Sniadach

DIGEST:

A retired civil service employee requests the time of his voluntary retirement be backdated from January 8 to January 3, 1983, so that he may be allowed an annuity payment for the month of January 1983. The employee suggests that his selection of January 8 as the retirement date resulted from a mistake or ignorance of the law. The Office of Personnel Management is vested with exclusive authority to adjudicate civil service retirement annuity claims. Regarding amount of pay already paid the claimant there is no basis to change the employee's status as an employee on duty and on leave based on the claimant's assertion that he was not aware of the requirements of existing law.

The question presented is whether a retired civilian employee of the United States Coast Guard, Mr. Antoni Sniadach, may have his civil service records modified to change the date of his retirement from January 8 to January 3, 1983.^{1/} We are unable to find a lawful basis for allowing this proposed revision of the official records.

In November 1982 Mr. Sniadach applied to be retired from the Coast Guard on December 31, 1982. Several weeks after submitting that application he read an article about civil service retirements in a commercial newsletter. The article contained information to the effect that Federal employees who postponed their pending retirements until January 1983 would gain eligibility for social security medicare coverage. The article further advised that those retiring on January 8, the end of the leave year for most employees, could also collect payment for excess annual leave which they would forfeit if they retired after that date.

^{1/} This decision is issued at the request of the Commandant of the Coast Guard.

On the basis of this information, Mr. Sniadach elected to change the date of his pending retirement from December 31, 1982, to January 8, 1983, and he was paid his Coast Guard salary until he entered retirement on January 8. Under a provision of the retirement laws, payment of a civil service retirement annuity to him was delayed until February 1, 1983.^{2/}

Mr. Sniadach indicates that after he retired he learned that the retirement laws had been amended on December 21, 1982, to grant immediate rather than delayed annuities to employees who served 3 days or less in the month of their retirement.^{3/} He further indicates that if he had been aware of this amendment at the time it was enacted, he would have elected to retire on January 3 rather than on January 8, 1983. For that reason he requests that his civil service records now be changed to backdate the time of his retirement to January 3, 1983. In effect, this request sets out a monetary claim for a civil service retirement annuity payment for the period from January 3 to January 31, 1983.

The Office of Personnel Management is by specific provision of statute vested with exclusive authority to adjudicate civil service retirement annuity claims, subject solely to administrative appeal to the Merit Systems Protection Board and further judicial review by the United States Court of Appeals for the Federal Circuit.^{4/} We are without jurisdiction to render authoritative decisions on claims for civil service annuity payments.^{5/} Moreover, with respect to matters properly within our jurisdiction, we have held that as a general rule a civil service separation may not be changed retroactively after it has become an accomplished

^{2/} 5 U.S.C. § 8345(b)(1)(A) directs payment of an annuity commencing on the first day of the month after separation from service, except as otherwise provided by law.

^{3/} See section 124 of the Further Continuing Appropriations Act, 1983, Public Law 97-377, approved December 21, 1982, 96 Stat. 1913.

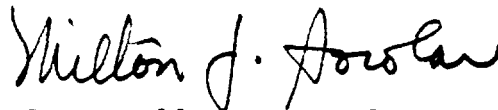
^{4/} See 5 U.S.C. § 8347(b) and (d).

^{5/} Compare 41 Comp. Gen. 460, 463 (1962); 30 Comp. Gen. 51 (1950); and 19 Comp. Gen. 352, 354 (1939).

fact, and exceptions to this rule are not warranted by bare assertions of mistake or ignorance of the law.^{6/}

In the present case, we may not properly consider or adjudicate Mr. Sniadach's claim for a civil service retirement annuity payment for the month of January 1983, and we are otherwise unable to find any proper basis for sanctioning the alteration of his official employment records to show a retirement date that is contrary to the actual facts.

The question presented is answered accordingly.


Acting Comptroller General
of the United States

^{6/} See, generally, 22 Comp. Gen. 291, 292 (1942); 14 Comp. Gen. 585 (1935); 10 Comp. Gen. 11 (1930); and 26 Comp. Dec. 448 (1919).